

### **REMARKS/ARGUMENTS**

Reconsideration and allowance in view of the following remarks are respectfully requested.

Claims 2-3, 5-6, 13, 19 and 23 were rejected under 35 USC 102(e) as anticipated by Sekiya. Applicant respectfully traverses this rejection.

Anticipation under Section 102 of the Patent Act requires that a prior art reference disclose every claim element of the claimed invention. See, e.g., Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1574 (Fed. Cir. 1986). While other references may be used to interpret an allegedly anticipating reference, anticipation must be found in a single reference. See, e.g., Studiengesellschaft Kohle, G.m.b.H. v. Dart Indus., Inc., 726 F.2d 724, 726-27 (Fed. Cir. 1984). The absence of any element of the claim from the cited reference negates anticipation. See, e.g., Structural Rubber Prods. Co. v. Park Rubber Co., 749 F.2d 707, 715 (Fed. Cir. 1984). Anticipation is not shown even if the differences between the claims and the prior art reference are insubstantial and the missing elements could be supplied by the knowledge of one skilled in the art. See, e.g., Structural Rubber Prods., 749 F.2d at 716-17.

In characterizing Sekiya as anticipating, e.g., claim 2, the Examiner paraphrases claim 2 referring to certain elements of Sekiya. However, in paraphrasing applicant's claim 2, the Examiner has failed to include all the limitations of present claim 2. Specifically, by virtue of the amendment filed June 7, 2007, which was supplemented by the August 28, 2007 amendment, claim 2 and the remaining independent claims provide that the magnetic flux reducing means passes therethrough only a part of the magnetic fluxes generated by the magnet, only when the relative turning angle between the magnetic flux generating means and the magnetism sensing element is within a predetermined range of turning angles, which predetermined range is less than a full range of relative turning angles.

A turning range in Sekiya is  $\theta$ , as defined by the unnumbered projections shown to limit relative turning angle in Figures 3A, 3B and 3C. As such, Figures 3A – 3C illustrate the full range of relative turning angles. Throughout this relative turning angle, it can be seen that the armature 50, though only semi-circular, passes all magnetic fluxes of magnet 10 therethrough, over the entire range  $\theta$  of movement of rotor 1. Indeed, because rotor 1 is constrained to move only through limited range  $\theta$  and throughout that range, as illustrated by Figures 3A-3C, the magnetic flux of magnet 10 all passes through armature 50 it is clear that the limitations of applicant's independent claim 2, as well as independent claims 13 and 19, are not anticipated by Sekiya.

As discussed previously, the means (armature) 50 in Sekiya is for restricting magnetic flux leakage from magnets 10 to an inside of rotor 1 and hence, continuously passes the magnetic fluxes therethrough over the entire angular range  $\theta$  of relative movement. What Sekiya fails to teach is that armature 50 allows the magnetic fluxes to pass therethrough only in a limited angular range, which is less than a full range of relative turning angles, to form another magnetic flux path different from the normal one. In this regard the invention of applicant's claims 2, 13 and 19 is characterized by including a magnetic flux reducing means 11 that passes therethrough only a part of the magnetic fluxes of the magnetic generating means 5 and thereby reducing magnetic fluxes passing through a magnetism sensing element 7, but only when a relative turning angle is within a predetermined range, less than the full range of relative turning angles. This is clearly demonstrated for example by applicant's Figures 1 and 2A, where it is clear that a part of the magnetic flux passes through the magnetic flux reducing means 11 only when a relative turning angle is within a predetermined range.

If upon reviewing the foregoing the Examiner continues to believe that Sekiya anticipates applicant's claims 2, 13 and 19, the favor of a personal interview is solicited,


so that the Examiner's interpretation of Sekiya and understanding of the invention can be discussed and so that the Examiner's position can be more fully understood.

Applicant notes with appreciation the Examiner's indication that claims 4 and 20 contain allowable subject matter and that claims 24-25 are allowed. For the reasons advanced above, however, it is believed that all pending claims are allowable over the prior art of record.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:   
Michelle N. Lester  
Reg. No. 32,331

MNL:slj  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100